



## COMMERCIAL SUBMERGED LANDS LEASE

No. Lease #  
Lessee Name

This lease agreement is made and entered into by and between the State of Idaho, acting by and through the State Board of Land Commissioners (LESSOR) and [INSERT LESSEE NAME](LESSEE), [INSERT STREET ADDRESS], [INSERT CITY], [INSERT STATE] [INSERT ZIPCODE] collectively referred to herein as the "Parties." In consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

This lease shall commence [INSERT COMMENCEMENT DATE] and terminate [INSERT TERMINATION DATE].

The LESSOR does hereby lease and demise unto the LESSEE, at the rate and for the use specified herein, the lands described as follows or as may be described in the attached and as set forth in Encroachment Permit : [INSERT USE]  
[INSERT LAKE] [INSERT COUNTY]

In consideration of the foregoing, the covenants, restrictions and conditions in the attached, herein incorporated by reference as Attachment A, are hereby agreed to by LESSEE and LESSOR.

**WITNESS WHEREOF**, the parties hereto have caused these presents to be duly executed the day and year written.

### IDAHO STATE BOARD OF LAND COMMISSIONERS

\_\_\_\_\_  
Secretary of the State of Idaho

\_\_\_\_\_  
President of the State Board of Land Commissioners  
and Governor of the State of Idaho

\_\_\_\_\_  
Director, Idaho Department of Lands

STATE OF IDAHO, COUNTY OF ADA

On this \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared C.L. "Butch" Otter, known to me to be the President of the Idaho State Board of Land Commissioners and the Governor of the State of Idaho; and Ben Ysursa, known to me to be the Secretary of the State of Idaho and George B. Bacon, known to me to be the Director, Department of Lands, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Residence

\_\_\_\_\_  
Commission Expires

### LESSEE SIGNATURE(S)

\_\_\_\_\_  
(LESSEE) \_\_\_\_\_ (LESSEE)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_,

known to me to be the LESSEE that executed the within instrument, and acknowledged to me that they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Residence

\_\_\_\_\_  
Commission Expires

## ATTACHMENT A

### 1. Rent.

Lessee shall pay the Lessor, as rent for the leased site, the following amounts, determined and payable in the manner and at the time set forth herein, without abatement, offset or deduction of any kind, unless allowed by this lease. All rent shall be paid in lawful money of the United States of America forwarded to the Lessor or as otherwise directed by the Lessor in writing.

- A. Rent for [INSERT USE]. Annual rent shall be a base of [INSERT RENT AMOUNT], due by January 1 of each year. During a given year, if the annual gross receipts as calculated below is greater than the base rent of [INSERT RENT AMOUNT], then additional rent is due for that year and payable by April 1.
- B. Gross Receipts Rent and Report. Gross receipts rent and report shall apply to [INSERT USE] only. Lessee shall calculate and report annual gross receipts for the previous calendar year (January 1 through December 31) by April 1 following the end of each lease year. The Lessee shall submit the gross receipts documentation, as described below, without further notification. Failure to provide such documentation by April 1 shall be cause for Lessor to declare a default herein and terminate the lease upon thirty (30) days written notice.
  - i. Lessee shall calculate gross receipts rent as follows: annual gross receipts multiplied by percentage less the base rent, equals gross receipts rent ( $\text{Gross Receipts} \times 3.75\% - \text{base} = \text{gross receipts rent}$ ). If the percentage of gross receipts totals less than the base rent, no gross receipts rent shall be due.
  - ii. Whether or not gross receipts rent is due, Lessee shall provide to Lessor a verified report of gross receipts and the supporting tax return or sales tax report filed with the Internal Revenue Service or Idaho State Tax Commission for the previous calendar year. Said report and any rental due thereunder shall be due by April 1 of each year.
  - iii. If a marina makes all of its marina facilities available to the public on a first-come, first-served basis, the rent for boat moorage shall be discounted by twenty-five percent (25%); except that the rent, after discount, shall not be less than Two Hundred Fifty dollars (\$250.00).
- C. Annual Rent Subject to Modification. Lessor reserves the right to increase or decrease the annual rent to be paid by the Lessee. The increase or decrease for the year shall be effective as of January 1 and payable by January 1. Lessor shall provide Lessee written notification one hundred and eighty (180) calendar days prior to the change in the annual lease amount.
- D. Late Payment Fee. Any late payment of rent shall be cause for the Lessor to declare a default herein, and terminate the lease upon a thirty (30) days written notice. If any rent payment is not made to Lessor by the date due or as provided herein, the Lessee shall pay to the Lessor, as a late payment fee an amount equal to \$25.00 or one percent (1%) of the amount due, whichever is greater, plus one percent (1%) per month of any amounts due, including interest, until paid in full.

### 2. Use of Premises.

The Leased Site shall be used for [INSERT USE] in accordance with Encroachment Permit #[INSERT PERMIT #] and any successor permit(s). This Lease is contingent upon Lessee continually maintaining and complying with the provisions contained in the Encroachment Permit. Any new or change of use requires Lessor's prior written amendment of the Encroachment Permit and prior written adjustment of this Lease Agreement.

### 3. Insurance.

Lessee shall purchase and keep in force all insurance required by this lease, including business interruption insurance, if required by the Lessor, to assure payment of the annual rent. Any failure to comply with any of the terms of this section shall be grounds for immediate termination of this lease.

- A. Commercial General Liability. Lessee shall obtain, at Lessee's expense, and keep in effect during the term of this lease, Commercial General Liability Insurance covering bodily injury and property damage. This insurance shall include personal injury coverage, contractual liability coverage for the indemnity provided under this lease. Coverage shall be combined single limit per occurrence, which shall not be less than One Million Dollars (\$1,000,000), or the equivalent. Each annual aggregate limit shall not be less than One Million Dollars (\$1,000,000), when applicable.

- B. Property Insurance. Lessee shall throughout the term of this lease at its own expense, keep and maintain in full force and effect, property insurance for what is commonly referred to as "All Risk" coverage, excluding earthquake and flood, on Lessee's improvements and personal property.
- C. Workers' Compensation. Lessee shall maintain all required coverages including Employer's Liability.
- D. Additional Insured. The liability insurance coverage required for performance of the lease shall include the State of Idaho, the Board of Land Commissioners, and the Department of Lands, its officers, agents, and employees as Additional Insureds, but only with respect to the Lessee's activities arising during the performance of this lease. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent not to renew insurance coverages without thirty (30) calendar days written notice from the Lessee or its insurer to the Department of Lands. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect coverages provided to the State of Idaho, the Board of Land Commissioners and the Department of Lands, its officers and employees.
- E. Insurance Policy Requirements. All insurance required under this paragraph shall be with companies approved by Lessor. No insurance policy required under this section shall be cancelled or reduced in coverage except after thirty (30) calendar days prior written notice to Lessor. All insurers shall have a Bests' rating of A- or better and be authorized to do business in the State of Idaho. Lessee shall deliver to Lessor prior to occupancy and at least annually thereafter, copies of policies of such insurance or certificates evidencing the existence of the minimum required insurance and evidencing Lessor as Additional Insured thereunder. In no event shall the limits of any insurance policy required under this section be considered as limiting the liability of Lessee under this lease.

Lessee shall provide certificates of insurance or other documentation certifying Lessee's possession of insurance policies required herein to Lessor within ten (10) days of Lessor's written request.

#### **4. Lease Term And Renewal Conditions.**

- A. Lessor grants to Lessee the option to renew this Lease for additional ten (10) year terms commencing upon the expiration of the original Lease or subsequent Leases, provided that the Lessee shall submit an application for renewal by April 30 of the year of expiration of the lease. Lessee understands and agrees that the Lessor has the sole discretion relating to the terms and conditions offered in any renewed lease and understands and agrees that the terms and conditions in a renewed lease may be materially different than this lease.
- B. Lessor will not consider a lease renewal unless the following conditions have been met:
  - i. All rent due has been paid in full;
  - ii. All Lessee gross receipts reporting requirements have been met;
  - iii. Lessee continues to hold a valid Encroachment Permit and has complied with all provisions of the Encroachment Permit; and
  - iv. Lessee has complied with all provisions of this Lease and fully and faithfully performed all obligations herein.

#### **5. Bond.**

Bonding is not required at this time. At the sole discretion of the Lessor, bonding may be required. Lessee shall have sixty (60) days from the date of notice to comply with any bonding requirements.

#### **6. Sublease and Assignment.**

- A. Sublease. This lease may not be subleased without Lessee first obtaining the prior written consent of Lessor, or Lessor's designee. No request for Lessor's approval of any Sublease will be considered unless Lessee is in good standing under the terms of the Lease.
- B. Assignment. No portion of this lease may be assigned without Lessee first obtaining the prior written consent of the Lessor or Lessor's designee. Applications for Lease Assignment must be completed on Lessor provided forms. No request for Lessor's approval of any Assignment will be considered unless Lessee is in good standing under the terms of the Lease.
- C. Proof of Assignment. To assign the Lessee's interest, Lessee must provide appropriate documentation to the Lessor for approval of an assignment. This may include, but not be limited to, the agreement or

contract of sale or transfer, having been acknowledged by the Assignee and Assignor, a letter from Lessee indicating the transfer of the lease as a gift; a divorce decree; a will or probate order, or other documentation as may be required to establish new or transferred ownership of improvements

**7. Lessee's Compliance with Applicable Laws and Rules.**

- A. Full Compliance. Lessee's use of the leased site and all improvements constructed thereon, shall fully comply with all statutes, ordinances, rules, regulations and laws of applicable federal, state and local governmental authorities. Lessee shall comply with all applicable rules and regulations and standards currently in effect or hereafter adopted by the Idaho State Board of Land Commissioners or the Idaho Department of Lands.
- B. No Waste or Nuisance. Lessee shall not use the leased site in any manner that would constitute waste, nor shall the Lessee allow the same to be committed thereon. The Lessee shall not do anything or allow any action which will create a nuisance or a danger to persons or property.

**8. Environmental, Safety, and Sanitary Requirements.**

- A. Sanitary Requirements. Lessee shall at all times keep the leased site in a clean and sanitary condition, free of trash, noxious weeds, garbage and litter, so that the leased site is maintained in as nearly natural state as possible. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local laws, rules and regulations pertinent to Lessee's use. The Lessee shall store and dispose of all trash and garbage in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.
- B. Fire and Safety Regulations. Lessee shall comply with all applicable state laws and the rules of the Department of Lands for fire protection and prevention of fire. Lessee agrees to keep the leased site free from fire hazards. Lessee is prohibited from burning garbage or household trash. The burning of wood or other debris requires the prior written permission of Lessor and must comply with applicable federal, state, or local law, regulation, rule, or ordinance.
- C. No Hazardous Materials. Lessee shall neither use nor permit upon the leased site or premise the use, placement, transport or disposal of any hazardous waste or any other substance that is or is suspected to be a hazardous substance or material except as provided by federal, state or local laws, regulation or ordinance of manufacture. Lessee shall be responsible, at its own expense, for removing or taking other appropriate remedial action regarding such wastes, substances, or materials which Lessee may cause to be introduced, in accordance with applicable federal, state, or local laws, regulations, or ordinances.

**9. No Warranty of Suitability.**

- A. No Warranty. Lessee acknowledges that neither the Lessor, nor any agent or designee of the Lessor, has made any representation or warranty with respect to the leased site or concerning the suitability of the leased site for the uses intended by the Lessee. Lessee acknowledges that it has accepted the leased site in an "AS IS CONDITION," and accepts liability for its condition.
- B. Quiet Enjoyment. Lessor agrees that the Lessee, upon payment of the rent and performing the terms of this lease, may quietly have, hold, and enjoy the leased site during the term hereof.

**10. Payment of Taxes and Assessments.**

On or before any due dates, the Lessee agrees to pay any and all real or personal property taxes, assessment or fees that may be assessed or levied by a governmental authority asserting such authority over the leased site or its improvements. Lessee shall make such payment directly to the taxing authority and hold Lessor harmless from any claim or assessment.

**11. Construction and Improvements.**

Construction of Improvements. Lessee may construct improvements upon the leased site under limited circumstances in accordance with the following:

- A. Lessee must first obtain the prior written consent of Lessor or Lessor's Designee.

- B. Lessee must furnish a complete set of construction plans and an accurate plot plan of all proposed improvements contemplated by Lessee and submit those plans and drawings to Lessor or Lessor's designee. After the construction plans and plot plan have been approved in writing by the Lessor, then the construction of the improvements must be in full compliance with all conditions under this lease.
- C. Liens or Encumbrances. Lessee has no authority to and shall not place a lien or encumber state land or state owned improvements. The Lessee shall not place a lien or encumber the lease or Lessee owned improvements unless given written consent by the Lessor.
- D. Treatment of Approved Improvements upon lease expiration without renewal, or termination or default under the lease.
- i. Upon expiration without renewal or termination, or default of the Lease, Lessor shall have the right to require Lessee to remove all improvements, placed upon the leased premises, and to require Lessee to restore the leased premises to its natural or previous condition, all at Lessee's sole cost and expense.
  - ii. Upon Lease expiration without renewal, or termination or default under the lease, Lessor has the right to enter the premises and remove any of the improvements, or otherwise dispose of such improvements, and charge the cost of removal and/or disposal and restoration to Lessee. Lessee shall also be responsible for all collection costs, including legal fees and interest. Lessee shall quietly surrender the leased site to Lessor.
  - iii. Upon Lease expiration without renewal, or termination or default under the lease, at Lessor's sole option, Lessor reserves the right to purchase such approved improvements from Lessee at market value. Market value is defined in this lease as "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress."
  - iv. If the removal of Lessee improvements has not occurred by the date that the lease expires or by the date of Lessee default, all rights, title and interest of the Lessee to any of the improvements shall, upon thirty (30) days written notice to Lessee or at a date determined at the sole discretion of the Lessor but not less than thirty (30) days, be deemed to revert to the State of Idaho and shall be considered abandoned in place by the Lessee.
- E. Treatment of Non-approved Improvements at any time during the lease and upon lease expiration without renewal, or termination, or default under the Lease.
- i. Lessor shall have the right to require Lessee to remove all non-approved improvements placed or caused to be placed upon the leased premises, and to require Lessee to restore the leased premises to its natural or previous condition, all at Lessee's sole cost and expense. If removal as described above has not occurred by the date that the lease expires and the lease has not been renewed, has been terminated, or at the date of the Lessee default, all rights to title and interest of the Lessee to any of the non-approved improvements shall upon thirty (30) days written notice to the Lessee, or at a date determined at the sole discretion of the Lessor, but not less than thirty (30) days, be deemed to revert to the State of Idaho, and shall be considered abandoned in place by the Lessee.
  - ii. Any non-approved improvements not removed by the Lessee may be removed by the Lessor at the Lessee's sole cost and expense. Any legal fees and collection costs incurred by the Lessor shall also be the Lessee's responsibility. Lessor has the right to enter the premises and remove any of the improvements, or otherwise dispose of such improvements, and charge the cost of removal and/or disposal and restoration to the Lessee. Lessee shall also be responsible for all collection costs including, but not limited to, legal fees and interest.

**12. Relations of the Parties.**

Lessee is not an officer, employee, or agent of the Lessor. Lessee covenants that it will satisfy and hold Lessor harmless against any lien, judgment, or encumbrance filed or made against the leased site at the Lessee's sole and separate cost or expense.

**13. Indemnification.**

Lessee will indemnify, defend, and save harmless the Lessor, the State of Idaho, its officers, agents and employees from and against any liability, claims, damages, debts, demands, losses, costs, expenses, actions, obligations, judgments for damages, or injury to persons or property including, but not limited to, reasonable attorneys' fees and costs caused by or arising out of use or occupation of the leased premises by Lessee, or Lessee's agents, officers or employees or any person's failure to comply with any applicable state, federal, or local laws, statutes, rules, regulations or acts. This duty to indemnify, defend and save harmless shall encompass any claims which include or allege negligence of Lessor, its agents, officers or employees other than claims which arise solely out of negligence on the part of the Lessor, and this duty shall survive the termination or expiration of this lease.

**14. Inspection and Audit Rights.**

- A. Inspection by Lessor. Lessee shall permit Lessor or Lessor's authorized agent or designee to inspect and enter the leased site and any improvements at any reasonable time.
- B. Audit Rights. The Lessor shall have the right to audit, in such a manner, and at all reasonable times as it deems appropriate, all activities of the Lessee arising in the course of its operation under this lease. Lessee must maintain its books, records, documents, and other evidence of accounting in accordance with generally accepted accounting principles so as to properly reflect its business. At sole discretion of the Lessor an audit of the Lessee's books or the supporting tax documents that has been filed with the Internal Revenue Service or the State Sales Tax Report may be performed by a Certified Public Accountant or agent of the Department of Lands. If an audit of gross receipts shows a discrepancy of ten percent (10%) or more, any additional rental owed, and the entire cost of the audit, shall be paid to the Lessor within thirty (30) days of notice to Lessee, as provided herein, unless a written payment plan detailing otherwise is approved by Lessor.

**15. Reservations by Lessor.**

The Lessor expressly reserves and excepts the following rights from the lease:

- A. All timber rights, rights for oil and gas, geothermal rights, mineral rights, easements and rights-of-way, fee title to the leased site, and title to all appurtenances and improvements placed thereon by the Lessor.
- B. The right to grant easements over the leased site, providing said easements do not conflict in a material way with the approved improvements installed and maintained or operated by the Lessee upon the leased site.
- C. The right to require that changes are made to the sanitation or other facilities for the protection of public health, safety or preservation of the leased site.
- D. The right to issue leases for exploration and development of oil, gas, geothermal and mineral resources or any other lease, so long as such other use does not materially interfere with the authorized use under this lease.
- E. To reserve, as its sole property, any and all water from any source arising on state land and to hold the water rights for any beneficial use that may develop as a result of this lease.
- F. Right of ingress and egress over and across the herein described premises for itself and its assigns on existing roads or suitable alternative roads provided by the Lessee.

**16. Lessee's Default.**

Lessee's breach of any of the terms of this lease is a default and is a basis for termination of the lease. Lessor shall provide Lessee written notice of the breach or violation and, if applicable, the corrective action required of Lessee. The notice shall specify the reasonable time to make a correction or cure the violation or breach. If the corrective action or cure is not taken within the specified time or does not occur, then the Lessor or Lessor's designee shall cancel the lease effective on the date specified in the written termination notice, provided, however, that the notice shall be provided to Lessee no later than thirty (30) calendar days prior to the effective date of such termination.

**17. Notices.**

Any notice given in connection with the lease shall be given in writing and shall be delivered either by hand to the other party or by regular United States Mail, to the other party at the other party's address stated herein. Either party may change its address stated herein by giving notice of the change in accordance with this paragraph. Until changed by notice in writing, notice, demands and communications shall be addressed as follows:

Lessor: Idaho Department of Lands  
Bureau of Surface and Mineral  
Resources  
300 North 6<sup>th</sup> Street, Suite 103  
P.O. Box 83720  
Boise, ID 83720-0050

Lessee: [INSERT LEASE NAME]  
[INSERT NAME OF  
RESPONSIBLE PARTY]  
[INSERT STREET ADDRESS]  
[INSERT CITY, STATE, ZIP CODE]

**18. Waiver.**

The waiver by the Lessor of any breach of any term, covenant, or condition of this lease shall not be deemed to be a waiver of any past, present, or future breach of the same or any other term, covenant, or condition of this lease. The acceptance of rent by the Lessor hereunder shall not be construed to be a waiver of any term of this lease. No payment by the Lessee of a lesser amount than shall be due according to the terms of this lease shall be deemed or construed to be other than a partial payment on account of the most recent rent due, nor shall any endorsement or statement of any check or letter accompanying any payment be deemed to create an accord and satisfaction.

**19. Attorneys' Fees and Costs.**

In the event either party to this Lease shall institute a lawsuit of any kind under this Lease or action is taken by either party to obtain performance of any kind under this Lease, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys fees, accountants fees and appraisers fees and fees of other experts, incurred therein by the prevailing party, including all such costs and expenses incurred with respect to an appeal and such may be included in the judgment entered in such action.

**20. Officials, Agents and Employees Not Personally Liable.**

In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or obligation contained in this lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

**21. Miscellaneous.**

- A. Modification. The lease terms, excluding the rent adjustments, may be modified only by the prior written consent of the authorized representatives of the Lessor and Lessee.
- B. Complete Statement of Terms. No other understanding, whether oral or written, whether made prior to or contemporaneously with this lease, shall be deemed to enlarge, limit, or otherwise effect the operation of this lease.
- C. Lessee's Non-Discrimination. Lessee shall not discriminate against any person because of race, creed,

religion, color, sex, national origin or disability.

- D. Paragraph Headings. The paragraph headings, titles, and captions used in this lease are not to be construed as interpretations of the text but are inserted for convenience and reference only.
- E. Entire Agreement. This lease contains the entire agreement between the parties as of the date concerning the subject matter hereof and supersedes all prior agreements. The execution of this lease has not been induced by either party, or any agent of either party, by representations, promises, or undertakings whatsoever between the respective parties concerning this lease except those which are expressly contained herein.
- F. Governing Law and Forum. This lease shall be construed in accordance with and governed by the laws of the State of Idaho and the parties consent to the jurisdiction of Idaho State Courts located in Ada County in the event of any dispute with respect to this lease.
- G. Binding on Heirs and Successors. It is understood and agreed that all terms, covenants, and conditions hereof shall be binding upon the approved subleases, approved assignees and Lessee's heirs or successors in interest.
- H. Severability. In the event any provision of this lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.



# SEGREGATION REVISIONS

The following segregation revisions were made to the original plan by the Surveyor General of the State of Alaska, Department of Natural Resources, on 10/10/2005.

1. The original plan was amended to show the correct location of the boundary between the Silver Beach and the Result.

5-2085

SILVER BEACH  
RESULT

PLAT NO. 123456789



SECTION	ACRES	DATE
1	1.00	10/10/2005
2	1.00	10/10/2005
3	1.00	10/10/2005
4	1.00	10/10/2005
5	1.00	10/10/2005
6	1.00	10/10/2005
7	1.00	10/10/2005
8	1.00	10/10/2005
9	1.00	10/10/2005
10	1.00	10/10/2005

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SILVER BEACH

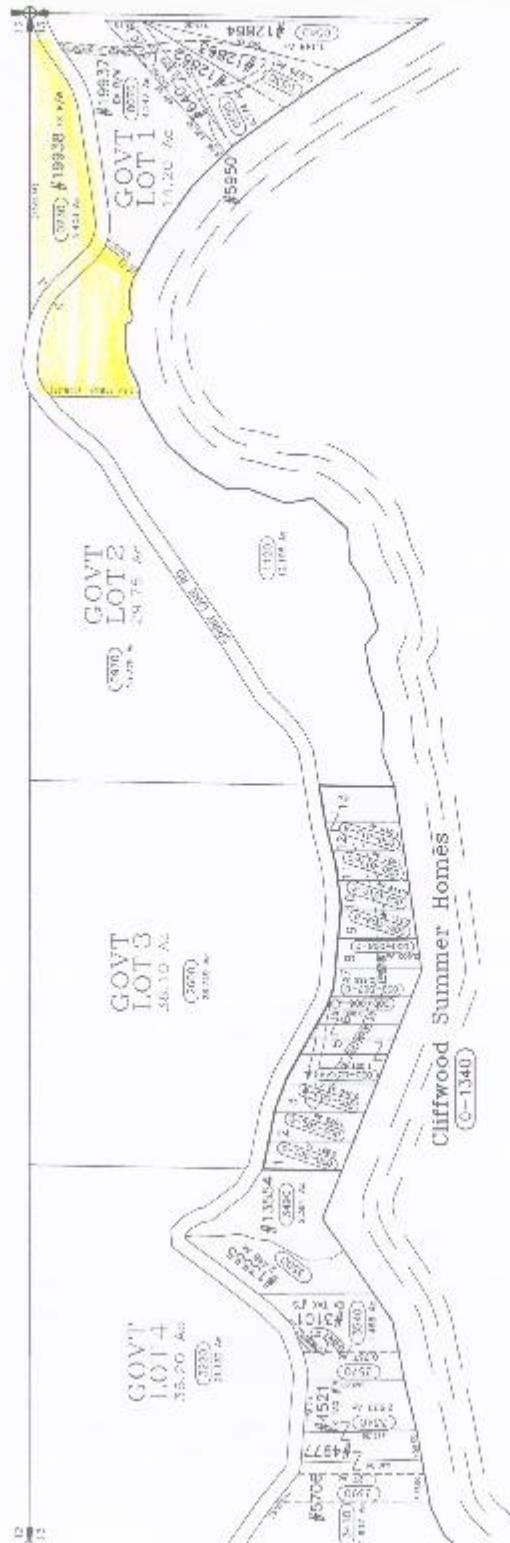
RESULT



Sec. 13 Twp. 53 N. R. 5 W. D. M.

*Sec. 13 Twp. 53 N. R. 5 W.B.M.*

5.3N05W-13



SPIRIT LAKE